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OFFICE OF THE
EXECUTIVE SECRETARY

Via Facsimile and Overnight Delivery

July 11, 2002

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

RE: Petition of Tennessee UNE-P Coalition to Open a Contested Case Proceeding to
Declare Switching an Unrestricted Unbundled Network Element, Docket No. 02-
00207

Dear Mr. Waddell:

By this letter, in lieu of testimony, and pursuant to the Tennessee Regulatory Authority's May 31, 2002 *Notice*, the Association of Communications Enterprises ("ASCENT"),¹ on behalf of its members, states its concurrence with, and support of, the *Direct Testimony of Joseph Gillan*,² submitted on behalf of the Tennessee UNE-P Coalition in the above-referenced proceeding. ASCENT has reviewed Mr. Gillan's Direct Testimony and the evidence presented therein. The conclusions Mr. Gillan draws therefrom are entirely consistent with the experience of ASCENT's local exchange carrier members and have equal applicability on member operations. ASCENT urges the Tennessee Regulatory Authority ("Authority") to be guided by Mr. Gillan's recommendations, and those pertaining to incumbent local exchange carrier unbundled local switching ("ULS") obligations in particular.

As an industry association comprised primarily of entrepreneurial and small local and interexchange telecommunications company members, the issue of unbundled network element ("UNE") and ULS availability, is of primary importance to ASCENT members. Broad UNE and ULS availability are unquestionably key building blocks that enable new market entrants to effectively serve subscribers, as the recent U. S. Supreme Court reinstatement of the Federal

¹ ASCENT is the international industry organization representing the interests of advanced communications firms. ASCENT's more than 300 companies and individual members provide a variety of voice and data services including Internet access, high-speed transport, local and long distance phone service, application services, and wireless products. Founded in 1992 and headquartered in Washington, D.C., ASCENT's mission is to open all communications markets to full and fair competition and to help member companies' design and implement successful business plans. ASCENT strives to assure that all service providers, particularly entrepreneurial firms, have the opportunity to compete in the communications arena and have access to critical business resources.

² *Direct Testimony of Joseph Gillan On Behalf of the Tennessee UNE-P Coalition*, Docket No. 00-00207, February 25, 2002 ("Gillan Testimony").

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Communications Commission's "additional combinations" rules³ underscores.⁴ Absent the ability to access needed UNEs on an unrestricted basis, all competitive carriers will be severely thwarted in their ability to enter and effectively compete in Tennessee's local market, and consumers will be unable to realize the promise of meaningful wireline competition.

Unbundled Local Switching Is a Crucial Economic Necessity for Competitors. "Unbundled local switching is critical to the development of local competition in Tennessee."⁵ The UNE-platform mode of entry, which includes ULS, has been responsible for the lion's share of competitive entry within the state of Tennessee since its inception, providing many Tennesseans with affordable competitive services.⁶ Success of UNE-P is due in large part to the fact that this mode of entry eases the path to entry for competitors by lowering costs and enhancing service quality,⁷ viz. the average non-recurring cost for migration of a single analog loop to a competitor's Tennessee switch is \$66.28, as opposed to the average cost to migrate that loop to an existing loop/port combination through ULS is a mere \$1.03, a 98% savings.⁸

Unbundled Local Switching is Necessary to Prevent Market Remonopolization. Denial of unrestricted ULS will position BellSouth to "reverse the last twenty years of long distance competition...[allowing the company] to quickly win 'in the 25 to 30 percent market share' for long distance..."⁹ If competitors are unable to access unbundled local switching, they will be unable to provide competitive services at competitive prices to Tennessee consumers. Rather than operating at a loss, competitors will be forced out of the Tennessee markets for both local and interexchange services. Only those companies not reliant on ULS for the provision of services will be able to continue to compete in Tennessee, leaving BellSouth and perhaps one or two larger competitors with the entire state telecommunications market.¹⁰

Unrestricted Unbundled Local Switching is Within the TRA's Jurisdiction. The TRA has clear authority under both state and local law to require BellSouth to provide competitors with unrestricted ULS.¹¹ Tennessee statute provides for additional unbundling obligations above and beyond the minimum imposed by federal law, provided the proposed unbundling is technically and financially feasible.¹² These criteria "are already met by the existing unbundling requirements for local switching."¹³ Clearly, the Authority may lawfully require unrestricted

³ 47 C.F.R. § 315(c)-(f).

⁴ *Verizon Communications et al. v. Federal Communications Commission et al.*, 122 S.Ct. 1646, 2002 WL 970643 (May 13, 2002).

⁵ Gillan Testimony, page 7

⁶ *Id.* at 16-17. UNE-P last year was responsible for 85% of the net growth in Tennessee local competition.

⁷ *Id.* at 10.

⁸ *Id.* at 26.

⁹ *Id.* at 14.

¹⁰ *Id.* at 8-10

¹¹ *Id.* at 15.

¹² Section 64-4-124(a).

¹³ Gillan Testimony, page 21.

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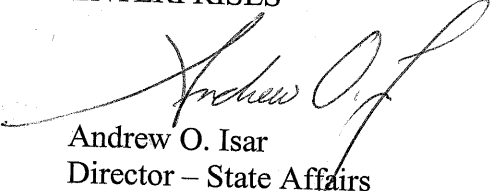
access to ULS. It is imperative that the TRA act to do so, as the federal minimum rule currently in place does not assure the availability of ULS to Tennessee competitors.¹⁴

Unrestricted UNE and ULS availability to competitors is a prerequisite for meaningful local competition as evidence presented by the UNE-P Coalition clearly demonstrates. Unrestricted UNE and ULS availability will support and encourage the development of today's nascent local competition in Tennessee, to the ultimate benefit of Tennessee consumers, who will be able to avail themselves of all the benefits of a competitive telecommunications marketplace. "There is simply no evidence that mass market competition...is possible through any strategy other than through access to the installed switching capacity of the incumbent..."¹⁵

ASCENT concurs with and supports the UNE-P Coalition's evidence, and urges the Authority to be guided by Mr. Gillan's testimony in requiring BellSouth to continue to make UNEs and ULS available to competitive carriers on an unrestricted basis.

Respectfully Submitted,

ASSOCIATION OF COMMUNICATIONS
ENTERPRISES



Andrew O. Isar
Director - State Affairs

Cc: Joelle Philips, Esq.
Henry Walker, Esq.

¹⁴ *Id.* at 15-16

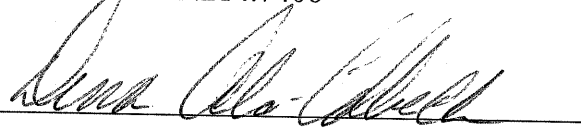
¹⁵ *Id.* at 23-24.

CERTIFICATE OF SERVICE

I hereby certify that on this day, July 11, 2002, I served the foregoing *Response of the Association of Communications Enterprises to BellSouth Telecommunications, Inc.'s Objection to Intervention of ASCENT* on the following known parties by causing to be sent via facsimile a true copy thereof.

Joelle Phillips, Esq.
BellSouth Telecommunications, Inc.
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A handwritten signature in cursive script, appearing to read "Dena Alo-Colbeck", is written over a horizontal line.

Dena Alo-Colbeck